

FEB 04 2002

Docket No.

0152.00378

Declaration and Power of Attorney For Patent Application

English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

**SULFATION-INDEPENDENT L-SELECTIN OR E-SELECTIN
LIGAND (HCELL) AND THERAPEUTICS THEREOF**

the specification of which

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(check one)

☒ is attached hereto.

☐ was filed on _____ as United States Application No. or PCT International
Application Number _____
and was amended on _____

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

(Number)

(Country)

(Day/Month/Year Filed)

(Number)

(Country)

(Day/Month/Year Filed)

(Number)

(Country)

(Day/Month/Year Filed)

Priority Not Claimed

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☐

I hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

(Application Serial No.)

(Filing Date)

(Application Serial No.)

(Filing Date)

(Application Serial No.)

(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C. F. R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

09/358,116

July 21, 1999

Pending

(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

08/741,945

October 31, 1996

Abandoned

(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

08/321,400

October 11, 1994

Abandoned

(Application Serial No.)

(Filing Date)

(Status)
(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. *(list name and registration number)*

Kenneth I. Kohn, Reg. No. 30,955

Amy E. Rinaldo, Reg. No. 45,791

Send Correspondence to: Amy E. Rinaldo
KOHN & ASSOCIATES
30500 Northwestern Highway, Suite 410
Farmington Hills, Michigan 48334

Direct Telephone Calls to: *(name and telephone number)*
Amy E. Rinaldo (248) 539-5050

Full name of sole or first inventor Robert Sackstein	
Sole or first inventor's signature	Date
Residence 1003 Bajada De Avila, Tampa, Florida 33613	
Citizenship United States	
Post Office Address Same as above.	

Full name of second inventor, if any	
Second inventor's signature	Date
Residence	
Citizenship	
Post Office Address	



Practitioner's Do k t N . 0152.00378

**ADDED PAGE TO COMBINED DECLARATION
AND POWER OF ATTORNEY FOR SIGNATURE BY PERSON
WITH SUFFICIENT PROPRIETARY INTEREST ON BEHALF OF
NONSIGNING INVENTOR(S) WHO REFUSE(S) TO SIGN
OR CANNOT BE REACHED (37 CFR 1.47(b))**

I, Kenneth G. Preston
(type or print name of person (entity) with sufficient proprietary interest or authorized to act on behalf
of such person (entity))

hereby declare that:

I. I am a citizen of Tampa, Florida,
residing at 15312 Sherwood Forest Dr.
Tampa, Florida 33647

II. I

- ☐ am a person with sufficient proprietary interest.
☒ am authorized by the following person or juristic entity with sufficient proprietary
interest,

(complete the following information, if applicable):

University of South Florida
Name of assignee or entity having sufficient proprietary interest
4202 East Fowler Ave - FAO 126, Tampa, FL 33620-4962
Address of assignee or entity having sufficient proprietary interest
Assistant Vice President, Office of Research
Title of person executing this declaration and authorization to sign on behalf of assignee or entity having
sufficient proprietary interest

III. By virtue of this proprietary interest, I sign this declaration on behalf of, and as agent
for:

Full name of (first, second, etc.) Robert Sackstein
nonsigning inventor who

- ☒ refused to sign.
☐ cannot be found or reached.

NOTE: The name of the nonsigning inventor(s) should preferably also be inserted at the appropriate prior space
in the declaration, adding the words "nonsigning inventor-completed on added page."

United States
Country of Citizenship of nonsigning inventor
26 Fox Run Rd.
Last known address of nonsigning inventor
Sudbury, MA 01776

04/12/01 THU 14:55 FAX 248 539 5055

KOHN & ASSOCIATES

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NOTE: Ordinarily, the last known address will be the last known residence of the nonsigning inventor(s). A post office box is insufficient. Other addresses at which the nonsigning inventor(s) may be reached should also be given (and these can best be given in the Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor). MPEP § 409.02(a), 6th ed.

IV. Upon information and belief, I aver those fact that the inventor is required to state, 37 CFR 1.64(b).

V. Accompanying this declaration is:

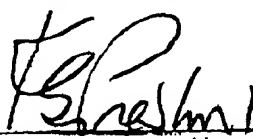
- (1) A STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR,
- (2) A STATEMENT BY PERSON SIGNING ON BEHALF OF NONSIGNING INVENTOR ESTABLISHING PROPRIETARY INTEREST,

to establish the proof of pertinent facts, and to show that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and

NOTE: Proof that such action is necessary to preserve the right of the parties or prevent irreparable damage may be made in either one of the above declarations by person having first-hand knowledge.

- (3) the petition fee of \$130.00. (37 C.F.R. 1.17(f))

Date: 04/12/01


Signature of person with sufficient proprietary interest or authorized to act on behalf of such person or entity
Kenneth G. Preston

(Added Page to Combined Declaration and Power of Attorney For Signature By Person with Sufficient Proprietary Interest on Behalf of Nonsigning Inventor(s) Who Refuse(s) to Sign or Cannot Be Reached [1-5]—
page 2 of 2)



Practitioner's Do k t N . 0152.00378

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Robert Sackstein

For: SULFATION-INDEPENDENT L-SELECTIN OR E-SELECTIN LIGAND (HCELL) AND THERAPEUTICS THEREOF

the specification of which:

(check and complete (a), (b), or (c))

- (a) ☐ is attached hereto.
- (b) ☒ was filed on 7/19/00, as Application Serial No. 09/619,290 and was amended on _____ (if applicable).
- (c) ☐ was described and claimed in International Application No. _____ filed on _____ and as amended on _____ (if any).

STATEMENT OF FACTS IN SUPPORT OF FILING
ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)

NOTE: This statement as to the pertinent facts concerning the refusal of the nonsigning inventor to join in the application or where the omitted inventor cannot be found or reached must accompany the declaration signed on behalf of the omitted inventor by a joint inventor or by a legal representative who shows a proprietary interest. Where the entity with a proprietary interest executes the declaration on behalf of the omitted inventor there must also be a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. 37 C.F.R. §§ 1.47(a) and (b).

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

(check next item, if applicable)

- ☒ Because signing on behalf of the nonsigning inventor is by a person or entity showing a sufficient proprietary interest, this statement also recites facts as to why this action was necessary to preserve the rights of the parties or to prevent irreparable damage.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

NOTE: The statement "must be signed, where at all possible, by a person having first-hand knowledge of the facts recited therein." M.P.E.P. § 409.03(d), 7th ed. If different persons have first-hand knowledge of different facts, then a declaration from each such person as to those facts he or she knows should be submitted separately.

NOTE: Copies of documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions. M.P.E.P. § 409.03(d), 7th ed.

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IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS

Amy E. Rinaldo

Name

Kohn & Associates, 30500 Northwestern Hwy., Suite 410

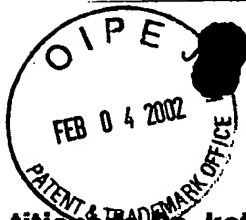
Address

Farmington Hills, Michigan 48334

**EFFORTS DURING CONVENTION YEAR T PREPARE APPLICATION AND
OBTAIN INVENTOR'S SIGNATURE**

NOTE: *In cases where priority under 35 U.S.C. § 119 is to be claimed, the 37 C.F.R. § 1.47 applicant should explain what efforts, if any, were made during the Convention year to prepare the application and obtain the inventor's signature thereon. The period allowed by the Convention year should "be sufficient for the preparation and deposit of an application . . . in the form required by the rules." . . . Accordingly, 37 C.F.R. § 1.47 may not be used "to save the parties from the consequences of their delay." M.P.E.P. § 409.03(d), 7th ed.*

(use Supplemental Page(s), if necessary)



Pra titione do ket N . 0152.00378

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Robert Sackstein

For: SULFATION-INDEPENDENT L-SELECTIN OR E-SELECTIN LIGAND
(HCELL) AND THERAPEUTICS THEREOF
(check and complete (a), (b), or (c))

the specification of which:

- (a) ☐ is attached hereto.
- (b) ☒ was filed on 07/19/00 as Application No. 09 / 619,290 and was amended on (if applicable).
- (c) ☐ was described and claimed in International Application No. filed on and as amended on (if any).

STATEMENT ESTABLISHING PROPRIETARY INTEREST BY PERSON
SIGNING ON BEHALF OF NONSIGNING INVENTOR

I, I,

Kenneth G. Preston

Name of person making statement

4202 East Fowler Avenue - FAO 126

Residing at

Tampa, Florida 33620-4962

am the person signing the declaration on the above-identified application on behalf of the nonsigning inventor and make this statement as to the facts establishing my proprietary interest.

II: As of the date I signed the declaration for this application, the proprietary interest in this invention:
(check one)

- ☐ belonged to me.
- ☒ belonged to the following juristic person:

University of South Florida

Name of company or other juristic person

4202 East Fowler Avenue - FAO 126, Tampa, Florida 33620-4962

Address of company or other juristic person

and I am authorized to sign the statement on behalf of the juristic person, my title being

(type or print title of person making statement in corporation or juristic person)

Assistant Vice President, Office of Research

NOTE: A person with sufficient proprietary interest may authorize any person, including an attorney or agent registered to practice before the PTO, to sign the application papers on its behalf. Where this happens proof of this authority in the form of a statement signed by an appropriate official of the corporation or juristic person must be submitted. M.P.E.P. § 409.03(b), 7th ed.

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NOTE: An inventor may not authorize another individual to act as his agent to sign the declaration papers although he or she can authorize the filing of the application if he or she later makes the declaration. 37 C.F.R. § 1.41(c) and M.P.E.P. § 409.03(b), 7th ed.

III. A. I establish the proprietary interest by

(check and complete (d) or (e))

NOTE: Documents that are not in the English language should be accompanied by an English translation. M.P.E.P. § 409.03(f), 7th ed.

- (d) ☐ attaching a copy of the assignment of this invention by the nonsigning inventor.
(e) ☐ attaching a copy of the agreement whereby the nonsigning inventor agreed to assign this invention.

NOTE: A typical agreement to assign includes the employment agreement whereby the nonsigning inventor agreed to assign all his inventions to his or her employer. If an agreement to assign is dependent on certain specified conditions being met, it must be established in this statement that those conditions have been met. M.P.E.P. § 409.03(f), 7th ed.

OR

- B. ☒ Although there is no assignment or written agreement to assign, a sufficient proprietary interest is demonstrated by the attached legal memorandum establishing that a court of competent jurisdiction would, by the weight of authority in that jurisdiction, award title in the invention to me or the legal entity on whose behalf I have authority to sign.

NOTE: There should be filed a STATEMENT BY PERSON HAVING FIRST HAND KNOWLEDGE THAT NONSIGNING INVENTOR WAS EMPLOYEE OR OTHERWISE OBLIGATED TO PERSON WITH SUFFICIENT PROPRIETARY INTEREST WHEN INVENTION MADE.

NOTE: If the assignment being submitted is to be recorded, it should be submitted with an ASSIGNMENT (DOCUMENT) COVER SHEET or Form PTO 1595.

IV. ASSIGNEE'S STATEMENT

In accordance with 37 C.F.R. § 3.73, the assignee hereby states that the evidentiary documents with respect to its ownership have been reviewed and that, to the best of assignee's knowledge and belief, title is in the assignee seeking to take this action.

V. PROOF OF NEED TO PREVENT IRREPARABLE DAMAGE OR PRESERVE THE RIGHTS OF THE PARTIES

NOTE: This proof must be presented where the declaration is signed by a person with sufficient proprietary interest for the nonsigning inventor (37 C.F.R. § 1.47(b)).

Irreparable damage may be established by showing that a filing date is necessary to (1) avoid a statutory bar that should identify the act or publication believed to constitute the bar or (2) make a claim for priority, which should identify the prior application(s) involved. M.P.E.P. § 409.03(g), 7th ed.

A diligent effort to prepare the application and obtain the inventor's signature thereon must be made, even if the application is being filed to avoid a bar or to claim priority. M.P.E.P. § 409.03(g), 7th ed.

Preservation of the rights of the parties may be demonstrated by a showing that the nonsigning inventor may reasonably be expected to enter into competition with the person having a proprietary interest and signing on behalf of the omitted inventor or that a firm plan for commercialization of the subject matter of the application has been adopted. M.P.E.P. § 409.03(g), 7th ed.

NOTE: This section may be omitted if it is completed in the Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor.

(use Supplemental Page(s) if necessary)

04/12/01 THU 14:56 FAX 248 539 5055

KOHN & ASSOCIATES

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The Declaration was originally due 11-13-00. The maximum amount of extensions were taken. Had the paperwork not been filed, the Application would have proceeded to abandonment and the inventor would have lost all patent rights. Accordingly, the paperwork has been filed in order to preserve those patent rights.

Date: 04/12/01



Signature of person making statement

☐ Plus _____ added page(s)

(Statement Establishing Proprietary Interest by Person Signing on Behalf of Nonaligning Inventor [1-7])
—page 3 of 3)

LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR

NOTE: The last known address of the nonsigning inventor must be stated so that the PTO can forward the notice of filing of the application to the nonsigning inventor at said address. (37 C.F.R. § 1.47). A post office box is insufficient. M.P.E.P. § 409.03(e), 6th ed.

Robert Sackstein

Full name of nonsigning inventor

1003 Bajada De Avila, Tampa, Florida 33613

Last known address of nonsigning inventor

NOTE: Ordinarily, the last known address will be the last known residence of the nonsigning inventor, but other addresses at which the nonsigning inventor may be reached should also be given in the space below. M.P.E.P. § 409.03(e), 6th ed.

DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR

NOTE: Complete either these facts or the facts as to REFUSAL OF NONSIGNING INVENTOR TO SIGN APPLICATION PAPERS.

NOTE: In addition to a recitation of these efforts, which must have been made before the application was deposited in PTO, copies of documentary evidence such as letters, telegrams, responses, etc. that support a finding that a nonsigning inventor could not be found or reached should, if available, be made part of the declaration. It is important that the affidavit or declaration contain statements of fact as opposed to M.P.E.P. § 409.03(d), 7th ed. conclusions.

The University of South Florida is the assignee for the above-captioned Application. Since the filing of the Application in July 2000, the University of South Florida has attempted to have the inventor Robert Sackstein sign the Declaration and Power of Attorney. The inventor has repeatedly refused to sign the documentation. Additionally, there were questions with regard to whether an additional institution should have been involved in the Assignment of the Application. During these discussions, the inventor, Robert Sackstein, repeatedly refused to sign any documentation with regard to the Application. It has been explained that if the signed Declaration is not filed by April 13, 2001, that the Application will become abandoned. The University of South Florida is an assignee for the above-captioned Application because Robert Sackstein is an employee of the University of South Florida and has an agreement stating that he will assign all inventions to the University of South Florida. The University of South Florida in an effort to maintain the above-captioned Application in pending status has decided to file the attached paperwork in order to avoid abandonment of the Application.

(use Supplemental Page(s), if necessary)

**DETAILS OF REFUSAL OF NONSIGNING INVENTOR
TO SIGN APPLICATION PAPERS**

NOTE: Complete either these facts or the facts as to DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR.

NOTE: The circumstances of this refusal must be specified by the person to whom the refusal was made and, before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings and declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The time and place of an oral refusal should be stated, or a copy of the written refusal should be attached.

If it is the conduct as a whole of the nonsigning inventor that is the refusal, then all the facts upon which this conclusion is based should be stated and a copy of any documentary evidence supporting these facts should be attached.

Where there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

Whenever the nonsigning inventor gives a reason for refusing to sign the application papers, that reason should be stated. M.P.E.P. § 409.03(d), 7th ed.

The inventor has repeatedly refused to sign the documentation. Additionally, there were questions with regard to whether an additional institution should have been involved in the Assignment of the Application. During these discussions, the inventor, Robert Sackstein, repeatedly refused to sign any documentation with regard to the Application.

(use Supplemental Page(s), if necessary)

**PROOF OF NEED TO PREVENT IRREPARABLE DAMAGE
OR PRESERVE THE RIGHTS OF THE PARTIES**

NOTE: *This proof must be presented where the declaration is signed by a person with sufficient proprietary interest for the nonsigning inventor (37 C.F.R. § 1.47(b)), but is not a requirement when the person signing for the nonsigning inventor is a joint inventor. (37 C.F.R. § 1.47(a)).*

If a statutory bar is involved, the act or publication which is believed to constitute the bar should be identified. If a claim for priority is involved, the prior application or applications should be identified.

A diligent effort to prepare the application and obtain the inventor's signature thereon must be made, even if the application is being filed to avoid a bar or to claim priority. M.P.E.P. § 409.03(g), 7th ed.

Irreparable damage may be established by showing that a filing date is necessary to (1) avoid a statutory bar or (2) make a claim for priority, which should identify the prior application(s) involved.

Preservation of the rights of the parties may be demonstrated by a showing that the nonsigning inventor may reasonably be expected to enter into competition with the person having a proprietary interest and signing on behalf of the nonsigning inventor or that a firm plan for commercialization of the subject matter of the application has been adopted.

M.P.E.P. § 409.03(g), 7th ed.

It has been explained that if the signed Declaration is not filed by April 13, 2001, that the Application will become abandoned. As the University of South Florida is an assignee for the above-captioned Application because Robert Sackstein in an employee of the University of South Florida and has an agreement stating that he will assign all inventions to the University of South Florida. The University of South Florida in an effort to maintain the above-captioned Application in pending status has decided to file the attached paperwork in order to avoid abandonment of the Application. Had the paperwork not been filed, the Application would have proceeded to abandonment and the inventor would have lost all patent rights. Accordingly, the paperwork has been filed in order to preserve those patent rights.

*(if this proof is not needed and not being presented,
then draw a line through this page of the form.)*

(use Supplemental Page(s), if necessary)



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Date: 4/12/01

Signature of person making statement

Amy E. Rinaldo

☐ Plus _____ Added Page(s)

(Statement of Facts in Support of Filing on Behalf of Non-signing Inventor [1-6]—page 8 of 8)